



STATE OF ARKANSAS
**Department of Finance
and Administration**

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June 12, 2006

Bill Trice, Attorney, Board of Optometry
Hope, Fugua & Campbell, P.A.
Attorneys at Law
Metropolitan Tower
425 West Capitol Avenue, Suite 400
Little Rock, AR 72201

Re: Request for Waiver #483-06-08

Dear Mr. Trice:

This letter is in response to your request for a waiver pursuant to ACA Section 19-11-715(c). The request for a waiver is based on the following facts:

- 1) The Board of Optometry has leased space in Searcy in the recent past for \$450.50 per month.
- 2) Dr. Howard Flippin, Executive Director of the Board, purchased property at a different location in Searcy and seeks to charge \$450.00 per month to the Board.
- 3) The Board approved the lease which includes double the space and is newly remodeled.
- 4) You received a letter dated May 16, 2006 from Susan Wilson of the Arkansas Building Authority questioning the legality of the transaction.
- 5) You were mailed and received (as you have indicated) an advisory opinion (#483-06-04) from this office which concluded that the transaction described, under the circumstances detailed by Ms. Wilson, is neither "appropriate (nor) lawful" and is violative of ACA Section 19-11-705(a)(1)(A).
- 6) You are requesting that this office issue a waiver of the ethical conflict.

We understand by your letter that you think that the savings to the Board associated with an increase in the square footage and newly remodeled condition of the space at a lesser price should serve to "waive" the ethical conflict of having an employee of the Board lease his personal real estate holdings to his employer. We cannot agree that the conflict is "insubstantial or remote," which is the standard of the waiver statute, and think that the "better deal" that you have indicated the Board is getting does not lessen the ethical infraction.

Accordingly, we will not issue a waiver of the application of the law.

This advisory opinion based upon a request for waiver is issued in accordance with ACA Section 19-11-715(b) and (c) and compliance with the above course of conduct is deemed to constitute compliance with the ethical standards of the Act and Executive Order #98-04.

Sincerely,

Richard A. Weiss

RAW:cw

cc: Susan L. Wilson, ABA
Aaron Black, Policy Analyst, Office of the Governor